



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

### NORTHERN REGIONAL OFFICE

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L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

## **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO**

### **SPRINT/UNITED MANAGEMENT COMPANY**

**Registration No. 73515**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1307(D), 10.1-1316, and 10.1-1309, between the State Air Pollution Control Board (SAPCB) and Sprint/United Management Company, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and Regulations for the Control and Abatement of Air Pollution.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Sprint" means Sprint/United Management Company, authorized to do business in Virginia.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in the Va. Code §§ 10.1-1301 and 10.1-1184.

3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Facility" means the Sprint facility located at the Sprint Reston West Campus in Reston, Virginia.
6. "NSR" means New Source Review.
7. "NOx" means oxides of nitrogen.
8. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
9. "Order" means this document, also known as a Consent Order.
10. "Permit" means New Source Review Permit issued on October 8, 2007, and amended on November 13, 2007.
11. "Regulations" mean the Regulations for the Control and Abatement of Air Pollution located in the Virginia Administrative Code ("VAC"), 9 VAC 5-10-10 *et seq.*.
12. "Virginia Air Pollution Control Law" means the laws located in the Virginia Code ("Va. Code") (1950), as amended, Va. Code § 10.1-1300 *et seq.*.

#### **SECTION C: Findings of Fact**

1. Sprint owns and operates a telecommunications facility in Reston, which is located in Fairfax County, Virginia.
2. Sprint's October 8, 2007 Permit was amended on November 13, 2007, to reflect the installation of two diesel engine-generator sets at the Facility. These two generators, reference numbers 8 and 9, are Cummins diesel engine driven generators rated at 2,000kW and 1500kW respectively.
3. Condition 13 of the Permit requires that Sprint conduct initial performance testing for Nitrogen Oxide emissions on emergency generator reference number 8 ("emergency generator 8") within 180 days of startup, and Condition 14 requires that the Facility conduct U.S. E.P.A. Reference Method 9 Visible emissions evaluation (VEE) testing on emergency generator reference number 9 ("emergency generator 9") within 180 days of startup.

4. Condition 21 of the Permit requires Sprint to notify DEQ of the actual date of construction of each generator, the anticipated date of start-up of each generator, and the actual date of start-up of each generator.
5. On April 14, 2008, DEQ Northern Regional Office Air Compliance Staff conducted a review of the Facility's source files and active Permit. The DEQ file review could not produce records for NOx stack testing, as required by the Facility's Permit. In addition, DEQ file review could not produce documentation of when generators 8 and 9 were constructed or the date of anticipated or actual startup as required by Permit Condition 21.
6. A Notice of Violation ("NOV") was issued by DEQ to Sprint United Management Company on April 16, 2008, for failing to conduct initial performance testing on emergency generators 8 and 9 within 180 days of equipment start up in violation of 9 VAC 5-50-30.
7. Sprint notified DEQ on April 25, 2008, that emergency generator 8 was placed on-line on December 4, 2007. Sprint also notified DEQ on May 19, 2008, that emergency generator 9 was placed online on May 13, 2008. Following the receipt of this information, and following further review of the Facility's source files, DEQ determined that Sprint was not in violation for to conduct initial performance testing within 180 days of start-up on emergency generator 9 or for failing to notify DEQ of the actual date of start-up of emergency generator 9.
8. Sprint submitted an extension request for initial compliance testing on emergency generator 8 on May 16, 2008. While the testing deadline for this generator was June 1, 2008, the Facility requested an extension until July 7, 2008, due to the limited availability of stack testing firms and the need to allow 30 days for DEQ to review the test protocol. DEQ denied the extension request on May 2, 2008.
9. A NOV was issued on June 3, 2008, to Sprint United Management Company, for failing to conduct initial performance testing on emergency generator 8. This NOV modified the April 16, 2008 NOV, using the start up information that was submitted by the facility on April 25, 2008.
10. The stack test protocol for NOx emissions testing and VEE testing for emergency generators 8 and 9 was submitted by Sprint to DEQ on June 4, 2008. The protocol was reviewed and approved by DEQ on June 9, 2008.
11. Emergency generator 8 was re-tested on August 21, 2008, to determine compliance with the short-term NOx emissions limit in the Permit. A total of three 60-minute runs were performed on the generator, using EPA test Method

Numbers. 1, 2, 3A, 4, and 7E. A VEE was also conducted on emergency generator 9 on July 10, 2008, as required by the Permit.

12. The final test report, Determination of Nitrogen Oxides and Visible Emissions, was received by DEQ on September 8, 2008. The report was reviewed and approved by DEQ personnel.
13. As detailed in the findings of fact above, DEQ concludes that Sprint is in violation of:
  - a. 9 VAC 5-50-30 and Permit Condition 13 for failing to conduct initial performance testing on emergency generator 8 within 180 days of startup;
  - b. 9 VAC 5-50-50 and Permit Condition 21 for failing to notify DEQ of the date of construction, anticipated date of startup, and actual date of startup for emergency generator 8;
  - c. 9 VAC 5-50-50 and Permit Condition 21 for failing to notify DEQ of the date of construction and the anticipated date of startup of emergency generator 9.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §10.1-1316(C), the Board orders Sprint/United Management Company and Sprint/United Management Company voluntarily agrees, to pay a civil charge in the amount of \$4,977.70. The civil charge is due within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Either on a transmittal letter or as a notation on the check, Sprint/United Management Company shall indicate that this payment is submitted pursuant to this Order and shall include the Federal Identification Number for Sprint/United Management Company.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Sprint/United Management Company, for good cause shown by Sprint/United Management Company, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those alleged violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Sprint/United Management Company admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Sprint/United Management Company consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Sprint/United Management Company declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Sprint/United Management Company to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Sprint/United Management Company shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Sprint/United Management Company shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Sprint/United Management Company shall notify the DEQ Regional Director in writing when circumstances are anticipated to

occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director in writing within 24 hours of learning of any condition above, which the parties intend to assert will result or has resulted in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Sprint/United Management Company. Notwithstanding the foregoing, Sprint/United Management Company agrees to be bound by any compliance date that precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Sprint/United Management Company. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Sprint/United Management Company from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
13. By its signature below, Sprint/United Management Company voluntarily agrees to the issuance of this Order.
14. The undersigned representative of Sprint/United Management Company certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Sprint/United Management Company to this document. Any documents submitted pursuant to this Order shall also be submitted by a responsible official of Sprint/United Management Company.

And it is so ORDERED this 7<sup>th</sup> day of April, 2009.

Thomas A. Faha

Thomas A. Faha  
Northern Regional Director  
Department of Environmental Quality

Sprint/United Management Company voluntarily agrees to the issuance of this Order.

By: [Signature]

Date: 27 March 2009

Commonwealth of Virginia

City/County of Fairfax

The foregoing document was signed and acknowledged before me this day of

March 27, 2009, by A. Gray Fenrell, who is  
(name)

Director, ERM of Sprint/United Management Company on behalf of the  
(title)

Organization.

Marilyn Dilley  
Notary Public

My commission expires: 10/10/09

